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EDITORIALS*

THE ALAMEDA AND SAN DIEGO MEDICAL SERVICE PLANS

The Economic Symposia of the Del Monte Annual Session.—At the annual session recently held at Del Monte, the first two of the general meetings were given over to a discussion of some current problems in medical economics. The interesting papers by Doctors Ray Lyman Wilbur of Stanford, Arthur C. Christie of Washington, D. C., and R. G. Leland of Chicago, given at the opening meeting, were printed in the May CALIFORNIA AND WESTERN MEDICINE. Members of the California Medical Association who failed to read those articles should try to do so when leisure presents. The essayists presented an excellent survey of some of the major topics now under discussion in the lay and professional press.

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The Alameda and San Diego Medical Service Plans.—The current issue of CALIFORNIA AND WESTERN MEDICINE prints two additional articles, one by President George G. Reinle of Oakland and the other by Dr. Hall G. Holder of

* Editorials on subjects of scientific and clinical interest, contributed by members of the California Medical Association, are printed in the Editorial Comments column, which follows.

San Diego, dealing at length with two significant experiments now being tried out by two of the county medical societies of California. The plans are intended to provide ways and means whereby low-bracket income and indigent citizens may have ready access to skilled medical and surgical care. The economic and the professional obligations involved in the two procedures, and the manner in which they have thus far worked out in practice, are explained in considerable detail. These articles will be found on pages 1 and 6.

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Why These Alameda and San Diego Plan Articles are Emphasized.—Attention is called to these plans in the hope that officers and committees of the county medical societies of California will give the same special consideration. The papers by Reinle and Holder also give valuable information on procedures having to do with local county hospital and clinic activities; and both are subjects of great importance to every county medical society and community in California.

It is possible that during the summer vacation months county medical society committees already existing or yet to be appointed may be able to make preliminary surveys of their respective local county hospital and clinic situations. Reports on such live topics would be received with real interest at the end of the summer vacation. In addition to the value accruing to every county society—if it compiled first-hand and accurate information on the care of its own low-bracket income and indigent citizens—there would be the further advantage of making such data available to the California Medical Association Department of Public Relations. The members of that important State Association committee have given most loyal and efficient service in their studies of some of the California problems which have to do with these, and related phases of medical practice; and further coöperative study by component county society committees will aid the movements greatly.

To appreciate properly what our colleagues in Alameda, San Diego, and other counties and communities are doing, it is necessary that all of us give of ourselves: first, in general study of these problems; and secondly, in active participation, as well as of thought in the making and carrying out of plans which aim at solution of some of the problems everywhere facing us. In proportion as we display real interest in these problems, we will find our own understanding of plans for such betterment much clarified.

THE USE OF THE INJUNCTION IN MEDICAL PRACTICE

A Recent Article in the American Medical Association Bulletin.—William C. Woodward, Director of the American Medical Association Bureau of Legal Medicine, in the American Medical Association *Bulletin* of May, 1933, calls attention to a recent decision of the West Virginia Supreme Court of Appeals, which presents some phases of legal procedure worthy of serious con-

sideration by all who are interested in the maintenance of adequate professional standards.

The enactment of a good state medical practice act is only a first step in the protection of the public from incompetent practitioners. The success of such a law depends not only upon the personnel of the examining board, but also upon the personnel in the investigation and legal departments of the board.

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Importance of Personnel in Legal Department.

When illegal practice by unlicensed practitioners becomes evident, many physicians are apt to think that the reason must be due to a poorly drawn state medical practice act. As a matter of fact, the explanation is not infrequently found to be dependent on the indifference or connivance of the duly constituted legal representatives of the state. Some of these legal officers at times, for reasons of political or other expediency, either close their eyes to the violation of medical licensure laws or perform their duties in medical statute enforcement in such half-hearted manner that the poor results obtained furnish a good alibi for stressing other work in their departments. That is why the personal attainments of the investigators and the attorney or attorneys for a board of medical examiners are so important.

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Recent Changes in the Legal Department of the California Board of Medical Examiners.—On this point, attention may here be called to the fact that this year the California Legislature passed a measure (since signed by Governor James Rolph) whereby, supposedly in the interest of economy, the positions of the attorneys of some of the boards and bureaus of the state government were abolished. The legal work of such boards is hereafter to be carried on by a deputy or deputies of State Attorney General Webb, these deputies acting, when necessary, in conjunction with district or other local attorneys.

One of the state boards which lost its own attorney through this new law was the California Board of Medical Examiners. It is sincerely hoped that this new plan of legal operation will have no detrimental effects upon the work of our state examining board. For it is to be remembered that the Board of Medical Examiners during many years past has not received any moneys whatsoever from the general tax funds of California; and that the income from which its expenses have been paid was derived altogether from licensure and similar fees, all received from physicians. The reason physicians have sanctioned such special taxation of the members of their profession has been due to their great interest in the public health, and because they construe it to be important that proper legal standards of practice should be maintained by every commonwealth. During the next year it will be interesting to observe how the new legal arrangements for the California State Board of Medical Examiners will work out in practice, to be hoped for the best.

The Injunction Approach in the West Virginia Case.—Coming back to the decision of the West Virginia Court of Appeals of May 13, it is noted that the legal procedure used in that case, which was directed against an illegal practitioner, was not by way of a criminal action, but by means of a bill of complaint filed in a court of equity.

In other words, the illegal practitioner was not haled into court on a criminal action proceeding, because in a criminal action it would have been necessary to prove to the satisfaction of a jury—sometimes a very difficult task—that the unlicensed practitioner was carrying on his illegal practice “beyond a reasonable doubt.” In the West Virginia case three licensed physicians, as citizens who felt they had been deprived of certain legal and property rights, went into a court of equity and petitioned that an injunction be granted to prevent the unlicensed practitioner from continuing to carry on his illegal practice.

The following excerpt from Woodward’s article emphasizes some of the differences which arise in injunction and criminal proceedings:

“In favor of the use of injunctions for the protection of the medical profession and of the public against the activities of unauthorized practitioners of medicine, it may be pointed out that prevention is the only safeguard against the damage that such practitioners may do, and prevention is afforded by injunctions only. Fines and imprisonment for offenses committed long ago do not afford relief from injuries from past misconduct nor protect against the consequences of offenses to be committed in the future. Injunctions are more effective, too, than are criminal prosecutions, because in criminal prosecutions the evidence of wrongdoing has to be proved beyond a reasonable doubt, to the satisfaction of a jury, and in event of acquittal no appeal can be taken by the prosecution, even though it may be desired to secure rulings of a higher court on what seem to be errors of law committed in the trial court. On the other hand, under the principles of the West Virginia case just decided, if a bill of complaint is filed in a court of equity, with a petition for an injunction, it need be shown to the satisfaction of the court only that the respondent practitioner is competing unlawfully with licensed practitioners and is a menace to the welfare of the people, and that there is no other adequate remedy for the situation—and this need be shown only by a preponderance of evidence. If the petition is denied by the trial court, the petitioner can appeal to higher courts, where all questions of law can be finally settled. . . .”

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With the West Virginia decision now a matter of record, it is probable that in other states of the Union this procedure, by means of injunction, will receive further trial. On its face, the method seems to have much to commend it.

MAKING A WILL

Why Physicians Should Know Somewhat About Wills.—Believing that the subject would prove of great appeal to members, General Counsel Hartley F. Peart, Esq., of the California Medical Association was requested to write an article touching upon and illustrating the complexity of the problems pertaining to the making of wills, and on some of the more important statutes of California concerning community property rights and other interests in a decedent’s estate. As General Coun-